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The right to education

Report submitted by the Special Rapporteur, Katarina Tomasevski

Summary

This is the sixth - and the last - annual report of the Special Rapporteur on the right to education. When her mandate was established in 1998, its key purposes were enhancing the visibility of the right to education and eliminating obstacles and difficulties in its realization. This has proved to be an impossible task because obstacles and difficulties in the carrying out of her mandate have considerably increased each year. Her formal complaint against the Office of the High Commissioner for Human Rights on 15 October 2003, not yet resolved, dealt with her efforts to enhance the visibility of the right to education. Her recommendation to the Commission is, therefore, not to renew the mandate on the right to education.

The report deals with three substantive areas: financial obstacles to the realization of the right to education, elimination of gender discrimination both in and through education, and the content of education. The limited length of this report required these issues to be only touched upon here, and the Special Rapporteur will present results of her work during the sixtieth session of the Commission.

The Special Rapporteur has prioritized the Commission's concern about financial obstacles in the realization of the right to education throughout her work. She has repeatedly brought to the Commission's attention the dual legal status of education, as entitlement and traded service. She has recently carried out a global review of the charging of school fees in primary education around the world to find out that not even primary education is free in 91 countries. This report includes a tabulated overview of her findings and further information will be provided during the Commission's sixtieth session.

This report has focused on gender, highlighting the need for cross-sectoral strategies for girls' education since many obstacles lie beyond the sector of education. The most widespread obstacles - marriage and pregnancy - as identified in government reports under human rights treaties are presented in a tabulated form. They highlight another crucial issue for the elimination of gender discrimination, namely access to sex education.

This report ends with a summary of lessons learned during the past five years of the mandate. Its key message is the urgent need for a substantive human rights contribution by the United Nations actors which bear "human rights" in their name. Sadly, education statistics are too often repeated without an analytical underpinning grounded in human rights expertise although the existing openings for human rights mainstreaming in global, regional and domestic education strategies require human rights expertise. Human rights mainstreaming usefully complements the global focus on the means of education (children starting and completing primary school) by asking: education for what?

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Introduction

1. The introduction to this report requires reiterating the beginning of the Special Rapporteur's previous annual report (E/CN.4/2003/9, para. 1) because the conditions under which she is working have worsened even further the past year. As before, she has done all the work herself and the amount of her own funds necessary to carry out her mandate increased in the past year to over \$18,000. On 15 October 2003 she submitted a formal complaint against the Office of the High Commissioner for Human Rights (OHCHR), followed by her objections (6-16 November 2003) to the processing of her mission report. Her formal complaint did not trigger any response by the time this report had to be finished, and the Special Rapporteur will inform the Commission about the follow-up in her oral report. Thus, the Special Rapporteur recommends that the Commission on Human Rights decide not to renew the mandate on the right to education.

I. A BRIEF OVERVIEW OF MAJOR ACTIVITIES AND DEVELOPMENTS IN 2003-2004

2. Human rights mainstreaming as a pillar of international cooperation across sectoral, disciplinary and professional divides has been accepted by many global, regional and domestic actors as well as individual Governments. The Special Rapporteur has, therefore, intensified her cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO), especially in the preparation of the Education for All (EFA) Global Monitoring Report 2003/4, which was launched on 6 November 2003. The integration of human rights in the analytical framework for the global monitoring of policies and actions for achieving education for all represents a welcome change. The analytical underpinnings of this monitoring framework illustrate the benefits of interdisciplinarity. Also, they highlight the advantages of the human rights approach in assessing progress and "reinforcing accountabilities."¹

3. Accountability has been the Special Rapporteur's key theme throughout her mandate, translating into practice the symmetry of human rights guarantees and the corresponding government obligations. The call for contributions and recommendations to the open-ended working group on an optional protocol to the International Covenant on Economic, Social and Cultural Rights in resolution 2003/18 of the Commission on Human Rights has provided a welcome opportunity for the Special Rapporteur to summarize the state of domestic and international jurisprudence on the right to education, which will constitute her contribution.

4. The Special Rapporteur carried out two missions in 2003. The first one, to the People's Republic of China (E/CN.4/2004/45/Add.1), took place from 10 to 19 September 2003. Her second mission was to Colombia (E/CN.4/2004/45/Add.2), from 1 to 10 October 2003. Although the countries she visited are different by all criteria one might choose, problems with the realization of the right to education are similar and highlight some of the key obstacles to its realization:

(a) These obstacles include the priority attached to military expenditure in budgetary allocations and the consequently low investment in education, contrary to the thrust of international human rights law which mandates priority for human rights. Budgetary allocations represent translation of Government's rhetoric into effective priorities. There is

global consensus behind the internationally recommended changes of budgetary allocations which inhibit the realization of the right to education. It is illustrated by the UNESCO recommendation of a minimum 6 per cent of gross domestic product (GDP) for education and the World Bank's emphasis on the negative "impact of non-productive expenditures, such as military expenditures" on poverty reduction.² As investment in education is not guided by a determined result, such as ensuring good quality education for all children, underinvestment has resulted in the charging of school fees in compulsory education in both countries. Moreover, the absence of a strategy for the elimination of school fees in primary education in both countries is contrary to the thrust of the global education strategy which stipulates: "Ensuring the abolition of user fees or charges will be priority as part of funding negotiations."³ The impact of school fees means, in China and Colombia - and everywhere else - the economic exclusion of the poor from education, and this is dealt with below in section II;

(b) In both countries, the statistics regarding out-of-school children of the compulsory education age does not cover all children but only those who comply with the requisite administrative regulations. Requirements of birth registration or residence certificates for school enrolment, as the Special Rapporteur has noted before (E/CN.4/2003/9, para. 23 and E/CN.4/2002/60, paras. 31-34), denies children's right to education. In China, internal migrants and out-of-plan children constitute a particular concern and, similarly, internally displaced children in Colombia represent an immense challenge owing to their statistical invisibility and the practical impossibility for many to start and finish school;

(c) The Special Rapporteur examined during both missions the orientation and content of education from the viewpoint of indivisibility of human rights. The phenomenon of graduate unemployment in both countries testifies to the lack of intersectoral linkages - between education and employment - and human rights mainstreaming, while the integration of human rights in public education requires a thorough review of the entire syllabus and curriculum. Furthermore, one of her findings was that an important reason for children's dropping out of school was their dislike of the education provided them. That many children, when asked whether they liked school - rarely, it happens - answered in the negative is a sobering lesson for education authorities.

5. Following the Commission's request to highlight obstacles to the carrying out of thematic mandates (resolution 2002/84, para. 6), the Special Rapporteur noted in her previous annual report the obstacles she had encountered regarding Ethiopia and Turkey (E/CN.4/2003/9, para. 30). These have not diminished in the meantime, adding support for the Special Rapporteur's recommendation that the mandate on the right to education not be renewed.

6. The Special Rapporteur has continued to try to overcome these obstacles and, regarding Ethiopia, wrote on 6 July 2003 to the United States of America as a lead donor for education in Ethiopia, as part of the follow-up to her mission to the United States (E/CN.4/2002/60/Add.1). That letter, and the previous one of 28 October 2002, sought information on the practical realization of the commitment to incorporate human rights in all United States Agency for International Development (USAID) programmes. No reply was received by the time this report was finalized and she will follow up her letter and inform the Commission of the outcome in her oral report.

7. The Special Rapporteur sent six letters to the Government of Turkey subsequent to her mission in February 2002 (E/CN.4/2002/60/Add.2), all of which have remained unanswered. This has prevented the Special Rapporteur from carrying out her mandate by addressing serious obstacles to the realization of the right to education in Turkey that she identified during her mission, and additional ones brought to her attention subsequent to her mission. Following the priority attached by the Commission on Human Rights to the integration of human rights in international cooperation, the Special Rapporteur wrote on 8 September 2003 to the Italian Presidency of the European Union so as to explore possibilities for an increased emphasis on the right to education in the European Union's cooperation with Turkey. There has been no reply as yet and the Special Rapporteur will follow up her letter and inform the Commission of the outcome in her oral report.

II. ECONOMIC EXCLUSION FROM EDUCATION

8. An important part of the rationale for education as a human right was its exemption from the free market, where access to education is determined by purchasing power. Recent challenges to this rationale have been reflected in an altered vocabulary, where the *right* to education has been replaced by *access* to education, and government obligation to ensure that at least compulsory education is *free* has been challenged by placing *free* between inverted commas and referring to "free" education. The rationale for such linguistic choices has been to emphasize the fact that education has to be funded, but to implicitly deny that education should be funded by the Government so as to constitute an individual entitlement, particularly for each child. The rationale of the right to education is a system whereby education is free at the point of use, on the basis of entitlement rather than ability to pay. The human rights obligation of Government to adequately fund education exists so that children would not have to pay for their schooling or remain deprived of it when they cannot afford the cost. Children cannot wait to grow, hence their prioritized right to education in international human rights law. The damage of denied education while they are growing up cannot be retroactively remedied.

9. There is an increased global consensus behind the need to free education from direct costs through government funding, but only for primary education. The World Bank has changed its approach to acknowledge "that attainment of universal primary completion is a responsibility of national governments and that the children in any country that are currently out of school are those the least able to contribute to the cost of education."⁴

10. Controlled vocabulary is a weapon, not a label. "Access to education" blurs the difference between education that is free and education accessible only after the payment of a fee, which is crucial from the human rights perspective because free trade does not have safeguards for the rights of poor people. The vocabulary preferred by economists, consisting of "access to education", buttressed by unfree and/or "free" education, or the use of "equity" instead of equality, recalls the words of John Maynard Keynes about the powerful influence that economists have even when they are wrong, as well as those of Paul Samuelson about the irrelevance of constitutional guarantees when these conflict with the recipes in economics textbooks. There is no human rights education curriculum developed for economists that the Special Rapporteur has been able to find, despite a long search. There is a need for it; her experience has been that neither international human rights law nor the economic rationale behind it is taught in any school of economics, and that human rights training is generally not

provided to economists designing education and/or general development strategies. The price of the lack of a vocabulary shared between economics and human rights is the lack of dialogue, which is impossible without a common language. The Special Rapporteur's first annual report (E/CN.4/1999/49, paras. 12-19) dealt with the need to create a shared, rights-based vocabulary for education. This remains a continuing challenge for the Commission on Human Rights, human rights treaty bodies and the Office of the High Commissioner for Human Rights.

A. Entitlements versus purchasing power

11. On the global level, the guarantee of compulsory and free education was linked to the elimination of child labour in 1921, more than 80 years ago. The rationale was - and remains - that the right to education unlocks other rights when guaranteed, while its denial leads to compounded denials of other human rights and perpetuation of poverty. The economic rationale was - and remains - that investment in education should be made by the Government because it yields economic returns with much delay. Moreover, education is not only, not even mainly, about knowledge and skills. It is a public good because it represents the most widespread form of institutionalized socialization of children. The economic underpinning of the right to education remains important because denial of the right to education triggers exclusion from the labour market, accompanied by the exclusion from social security because of the prior exclusion from the labour market. Where poverty results from the denial of human rights, as it often does in the case of girls and women, the remedy is necessarily their affirmation and enforcement, starting from the right to education.

12. The identification of financial obstacles in education is the crucial first step towards their elimination. Parents cannot ensure education for their children if they cannot afford the cost, and the parents' inability to afford sending their children to school deprives children of education. If there are no parents, or if they are irresponsible, the Government has to act in loco parentis or children are doomed to be self-supporting from a tender age in defiance of the very notion of the rights of the child. Neither parents nor Governments can ensure education for all children if it is beyond their means. Thus, international human rights law mandates progressive realization of the right to education and prioritizes international cooperation in its realization.

13. However, as the Special Rapporteur has noted in her previous annual reports (E/CN.4/2003/9, paras. 18-19, E/CN.4/2002/60, paras. 19-21, E/CN.4/2001/52, paras. 55-59, E/CN.4/2000/6, paras. 70-71), education acquired a double, mutually contradictory, legal status in the 1990s when it became a traded service. Primary and/or compulsory education continues as a public service in the majority of countries, albeit not free in many, while post-compulsory education is not a right in most countries but sold and purchased against a price. The commitments under the GATS (General Agreement on Trade in Services) have affirmed the Government's entitlement to preserve compulsory education as a free public service and the corresponding individual entitlement. The list of commitments in education under GATS, by country and education subsector, is available at www.right-to-education.org. The increasing global consensus⁵ about the need for all children to complete primary education prioritizes education as a free public service, but refers only to the first phase of schooling, thereby implicitly negating the right to secondary and university education.

14. A particularly worrisome trend is silence about the length of schooling in global education strategies because “primary education” can be defined as merely three years of schooling. The International Labour Organization (ILO) set the school-leaving age at 14 in 1921, corresponding to the minimum age for employment, and raised that age to 16 in 1946. The Special Rapporteur previously noted (E/CN.4/2003/9, para. 12) that children as young as 10 or 12 finish primary school and are left right-less as there is no mention of their right to secondary education, while they are too young to work or to marry. The absence of an affirmation of secondary and university education as rights in global education strategy documents of the past decade, and in recent resolutions of the Commission on Human Rights, threatens these rights with oblivion, with their full and unchallenged transformation into traded services.

15. Human rights mainstreaming necessitates resolving conflicts between international human rights law and international trade law as well as the broadening of the rule of law to encompass macroeconomic, fiscal and education strategies. Domestically, solidarity is enforced through the duty to pay tax wherefrom education is generally financed. Internationally, the universality of the right to education is premised on international cooperation so as to equalize opportunities for the enjoyment of the right to education by supplementing insufficient resources of poor countries, communities and families. Aid for education is minuscule, estimated at an annual US\$ 1,450,000,000 for primary education,⁶ while aid for post-primary education is threatened with complete disappearance.

16. Governmental human rights obligations are based on the premise that education is a public good and institutionalized schooling a public service. A global commitment to education as a right demands acceptance of human rights obligations by all Governments, individually and collectively. Education as a universal human right entails governmental obligations on two levels: domestic and global. Individual States are responsible for ensuring that human rights are effectively safeguarded on their territory. Global education strategies, economic or fiscal policies, international trade law, or anti-terrorism campaigns can constrain - rather than enhance - both the ability and the willingness of individual Governments to guarantee the right to education. Hence the need for human rights mainstreaming. It is, however, proverbial that we are much better at applying hindsight than foresight, and much human rights work strives to remedy violations retroactively.

17. A rights-based analysis of poverty is crucial to identify where poverty results from denials and violations of human rights. In such cases, additional funding is a necessary but not sufficient condition. It cannot, on its own, lead to sustainable improvements. Legal reform and its effective enforcement are necessary to affirm and safeguard equal rights for all. The commitment to review all domestic laws and eliminate their discriminatory provisions and to eliminate all legal gaps which leave women and girls without protection of their rights by the year 2005⁷ represents a potentially powerful strategy for change, if effectively implemented and internationally supported. Of course, legal guarantees have to be buttressed by the corresponding fiscal allocations. The process of decentralization may deepen the unequal enjoyment of the right to education by making the financing of education the sole responsibility of poor local communities or families: “For many countries, decentralization has meant that ministries can dump unwanted responsibilities on decentralized organizations without providing them with commensurate resources.”⁸ Making families and communities

responsible for funding education broadens the gap between haves and have-nots. Much as many other phenomena, this one has a visible gender profile. The importance of free public education for girls has been summarized by Lebanon thus:

“It is worth pointing out, however, that there is a connection between the preponderance of females over males and free education, as females outnumber males in State education in particular (and most of them are from low-income families). By contrast, there is a higher ratio of males to females in private fee-paying education (and the proportion of those from middle- and high-income families is appreciably higher than is the case in State education). This suggests that males take preference over females when the family has to pay fees to educate their children. The high cost of education and the diminishing role of the State school may therefore result in the practice of discrimination against females, as well as breaches of the principle of equal educational opportunities for both sexes” (CRC/C/70/Add.8, para. 209).

18. Breaking the vicious circle of impoverishment buttressed by exclusion from education requires Governments, individually and collectively, to prioritize and equalize funding for education, from the local to the global level. Since women bear the brunt of the absence or collapse of public services, decisions on education as a free public service or its transfer to the realm of freely traded service has implications for advancing or hampering gender equality.

B. The charging of school fees in primary education

19. Education as a key to poverty reduction conflicts with school fees, which prevent poor children from access to education because they are too poor to pay fees, closing off their pathway out of poverty. Paradoxically, in many countries education should be both free and compulsory for children, while school fees negate the children’s right to education, replacing it by access for those who can afford the cost. There is increasing global consensus that “elimination of school fees”⁹ is a key strategy for girls as fees victimize them more than boys. This change has inspired the Special Rapporteur to seek ways of facilitating the elimination of school fees, and she will inform the Commission of the results of her ongoing activities during its sixtieth session. The first part of the necessary basis for this step were investigations of the incidence and prevalence of school fees and other financial obstacles in primary education and their detrimental human rights impact, which triggered renewed commitments to free primary education (E/CN.4/2003/9, paras. 7-9). Its second part has yet to be taken. This entails properly defining “school fees” so as to encompass them all, and determining the child’s entitlement to a specified duration and quality of education with the requirement that all financial obstacles be eliminated.

20. The ongoing debates about school fees and the efforts to eliminate them have revealed the importance of precise definitions. For example, where tuition fees were nominally eliminated, they were often replaced by homework correction or desk-use fees. Or, where a central Government instructed schools not to charge fees without providing the funding needed for children’s education, the fees were continued under the guise of “voluntary financial contributions”. The Special Rapporteur’s extensive and ongoing search for authoritative

information on what is actually being charged aims to address this problem by specifying as precisely as possible the financial obstacles that preclude children from enjoying their right to education.

21. Education as the right of each child requires a definition of its guaranteed duration in accordance with all other rights of the child, especially regarding work or marriage or military service. The international legal requirement of free and compulsory education for all children conflicts with confining education to merely three or six years of primary schooling, which leave children out of school at the age of 9 or 12. That education is neither free nor compulsory for very many children in today's world is well known. That primary education may be much too short to merit being defined as the realization of the right to education is less well known. The Special Rapporteur previously noted the important differences between the duration of primary education and legally required compulsory education (E/CN.4/2000/6, paras. 46-48). These have considerably increased in importance because global education strategies do not refer to the requirement that education be made compulsory, while international support for the attainment of the Millennium Development Goals or the EFA goals remains confined to primary schooling.

22. Since the beginning of this millennium, there has been an emerging global consensus on the need to make primary education free. Thus far, the meaning of "free" has focused, on the global level, on identifying and eliminating direct charges (often called "user fees") that impede poor children's access to school and, in Latin America, on financial incentives for poor families to send their children to school and keep them at school, thus addressing the opportunity costs of schooling.¹⁰ These two types of financial obstacles point to the necessity of a correspondingly broad definition of what free education should mean in practice.

23. The much quoted pledge at the World Education Forum in Dakar in 2000 that "no countries seriously committed to education for all will be thwarted in their achievement of that goal by a lack of resources"¹¹ has highlighted the obstacle of insufficient resources at the country level. Indeed, these are often emphasized in government reports under human rights treaties that guarantee the right to education. Because in most countries it is local - rather than central - government that bears the principal financial responsibility for financing primary education, the locus of attention should encompass local communities and extend to families, as well as to children without parental support, be they street children or AIDS orphans. Often, it is the central Government that has identified financial obstacles that should be eliminated so as to universalize primary education through reports under human rights treaties or poverty reduction strategy papers (PRSPs). The information available under human rights reporting procedures, PRSPs and government reports within the EFA reporting system formed the major source of information for the Special Rapporteur's global review of the charging of fees in primary education. The full commissioned study is entitled "School fees as hindrance to universalizing primary education", is available on the web site of the EFA Monitoring Team (www.unesco.org/education/efa_report) and the Special Rapporteur's findings are summarized below in table 1. The Special Rapporteur will be grateful for all additions and corrections to the information she has been able to collate and verify because it is crucially important to identify financial obstacles to universalizing primary education as precisely as possible.

Table 1

Countries with school fees in public primary education, by region

Africa	Asia	Eastern Europe and Central Asia	South America and the Caribbean	Middle East and North Africa
Angola	[Bangladesh]	Armenia	Colombia	Djibouti
Benin	Bhutan	Azerbaijan	Grenada	Egypt
Burkina Faso	Cambodia	Bosnia and Herzegovina	Haiti	Israel
Burundi	China		Jamaica	Lebanon
[Cameroon]	Fiji	Bulgaria	Nicaragua	[Qatar]
Central African Republic	[India]	Georgia	Paraguay	Sudan
Chad	Indonesia	Kyrgyzstan	Peru	United Arab Emirates
Côte d'Ivoire	Lao People's Democratic Republic	Republic of Moldova	St Lucia	Yemen
Congo	Malaysia	Russian Federation	St Vincent and the Grenadines	
Democratic Republic of the Congo	Maldives	Serbia and Montenegro	Suriname	
Equatorial Guinea	Mongolia	Tajikistan	Trinidad and Tobago	
Eritrea	Myanmar	The former Yugoslav Republic of Macedonia		
Ethiopia	Nepal	Turkey		
Gabon	Pakistan	Ukraine		
[Gambia]	Papua New Guinea	Uzbekistan		
Ghana	Philippines			
Guinea	Singapore			
Guinea-Bissau	Vanuatu			
[Kenya]	Viet Nam			
Lesotho				
Liberia				
Madagascar				
Mali				
Mauritania				
Mozambique				
Namibia				
Niger				
[Nigeria]				
Rwanda				
[Senegal]				
Sierra Leone				
South Africa				
Sudan				
Swaziland				
Togo				
[Uganda]				
[United Republic of Tanzania]				
[Zambia]				
Zimbabwe				

Source: K. Tomasevski, "School fees as hindrance to universalizing primary education", available at www.unesco.org/education/efa_report.

Note: Country names are in brackets where the Government has made a commitment to eliminate school fees.

24. The requirement that primary schooling should be free for the child has generated a great deal of consensus, but the requirement that primary school should also be free of financial cost for the child's parents does not generate consensus. One reason for the lack of

global consensus on governmental responsibility to ensure free education is the parental primary responsibility, financial as well as any other, for their children. Another is that government obligation to ensure free education for all school-age children does not imply its monopoly over education. On the contrary, parental choice of education for their children forms part of international human rights law. Ideally, this choice should be free in all meanings of this word, including its exercise between different types of Government-funded schools. In practice, parental freedom of choice is confined to wealthy parents, as they can only exercise it at their cost.

25. School fees impose upon parents the obligation to finance the education of their children that should be public and free. Thus, children of poor parents are victimized by being denied education. Moreover, the sad fact that many children have to work to pay the costs of their own primary school remains cloaked in silence. The duty to financially contribute to the cost of primary education is spread among the whole population where education is financed by the State out of general taxation. Taxation exempts the poorest; those who do not earn enough to be liable to taxation are not taxed. Where fees are charged in primary school, those who are too poor to afford the cost are often not exempt from charges. Where exemptions are nominally provided, they are too cumbersome, or too humiliating to comply with, or too expensive to administer. Furthermore, the charging of fees in public primary schooling has blurred the boundary between public and private education.

26. School fees are most often charged for enrolment, tuition and examinations. Where education is tuition free, charges are levied for the use of educational facilities and materials (such as laboratories, computers or sports equipment), or for extra-curricular activities (such as excursions or sports), or generally for supplementing teachers' salaries or school maintenance. Such fees represent a considerable burden because these charges are added to all other costs of education. Besides school fees in different guises, direct expenditures include the cost of textbooks (which are provided free of charge in some countries, subsidized in many, but sold at a profit in others), supplies and equipment (notebooks, sketchbooks, pens and pencils), transportation (provided free of charge in few countries), meals (also provided free of charge in some countries, sometimes as an inducement to parents to send their children to school), as well as school uniforms where these are required for school attendance or represent a custom whose breach would penalize children without uniforms. These costs can be prohibitively high and prevent children from enrolling or force them to drop out. Moreover, all government reports under all human rights treaties point out the same effect of school fees: this type of economic exclusion affects girls much more than boys.

27. The pattern of the charging of school fees shows that they are poverty, rather than policy, based. No school fees have been found in the 34 members of the Organization for Economic Cooperation and Development (OECD), the European Union (EU) and the European Free Trade Association (EFTA).¹² As table 1 shows, the charging of school fees encompasses 91 countries, and is particularly widespread in Africa and Asia. Government reports under human rights treaties, from which most of this information is derived, routinely refer to their inability - rather than unwillingness - to introduce or restore free education for all children of compulsory school age. Frequent references to structural adjustment programmes, fiscal austerity and economic recession in government reports demonstrate the discord between rights-based and non-rights-based global approaches.

28. Poverty-based exclusion from education highlights the impossibility of alleviating poverty through education for all those who are too poor to afford its cost and these findings point to the need for an immediate and all-encompassing global commitment to the elimination of school fees. Its basis is the increasing number of countries re-introducing free primary education at the turn of the millennium, buttressed by the global prevalence of legal guarantees of the right to education. This would facilitate a global shift back to the original, rights-based model of progressive realization of the right to education.

III. THE PURPOSE OF EDUCATION: REINFORCING OR ELIMINATING INEQUALITY?

29. The right to education straddles the division of human rights into civil and political, on one hand, and economic, social and cultural, on the other hand. It embodies them all, affirming the conceptual universality of human rights and its underpinning, the refusal to accept that inequality and poverty are inevitable. Progress has been achieved through the almost-global acceptance of the rights of the child, which are by definition cross-cutting, and the global commitment to gender equality, which necessitates unifying artificially divided categories of rights. Further steps are necessary to design and put into practice a comprehensive strategy for the elimination of gender discrimination with regard to the right to education and human rights in education, as well as for enhancing the enjoyment of all rights and freedoms through education. The general practice still is to target women as a vulnerable category rather than addressing what makes them vulnerable, in particular their being rights-less and, consequently, asset-less. Women's land ownership and employment opportunities influence the motivation of parents and the girls themselves. Successful prolongation of girls' schooling delays marriage and childbearing, decreasing fertility and the numbers of children to be educated in the future. Women's increased political representation tends to have ripple effects on all facets of development. This was illustrated by the monitoring of the Millennium Development Goals, which has singled out Sweden, Denmark, Finland, Norway, Iceland, the Netherlands and Germany as the best performers among developed, and Argentina, Costa Rica and South Africa amongst developing countries.¹³ It is no coincidence that all exhibit high levels of women's political representation.

30. With the benefit of hindsight, it is easy to highlight the main features of collapsed models of schooling, which defined education as the springboard to guaranteed employment in the civil service. The language of instruction was the official language of the country, primary schooling was merely a preparatory stage for further education, the right to work was defined as access to a public-sector lifelong job. The collapse of that model created phenomena such as graduate unemployment, or the abandonment of schooling, which visibly and painfully testifies to the need for adaptability of education. Education statistics, however, measure only the internal objectives of education, such as learning outcomes. Assessing the contribution of education to what the learners can do with it after they finish school is key to adapting it to change, and human rights provide a ready-made framework. Moreover, the interface between school and society profoundly affects education. Its "intake", the children who are starting school, do so after learning a great deal in their family and community. Its "output", the graduates, bring with them the knowledge, skills and values they were taught in school. These may conflict with the knowledge, skills and values in society.

A. Girls and schools

31. The terminological shift to gender requires an underlying conceptual shift with regard to both sexes, as well as the relations between them. In education, the challenge is to strategize the achievement of gender equality *in* education and *through* education. A corollary requirement is to define equality *of* both women and men as the yardstick for measuring progress rather than merely equality *between* women and men.

32. The orientation of global development strategies towards eradication of poverty has converted the right to education into a powerful tool for mainstreaming human rights and gender equality. Poverty has been universally affirmed as a key obstacle to the enjoyment of the right to education. It has a visible gender profile as denials and violations of human rights, including the right to education, disproportionately victimize girls and women. Various grounds of exclusion and discrimination combine, trapping new generations - especially girls - into a vicious downward spiral of denied rights, where the lack of access to education leads to early marriage and childbearing, which then result in perpetuating and increasing impoverishment. This circular relationship requires rights-based education as a pathway out of poverty.

33. Table 2 illustrates how widespread an obstacle to girls' education child marriage and pregnancy are. Overcoming this obstacle requires a well-designed strategy for changing social norms through the mobilization of teachers, parents, community leaders, and pupils themselves.

Table 2

Key obstacles to girls' education: marriage and pregnancy

Country	Marriage	Pregnancy
Albania	✓	
Bangladesh	✓	
Belize	✓	✓
Bolivia		✗
Burkina Faso	✓	
Cameroon	✓	✗
Cape Verde		✓
Chad	✓	✓
Chile		✗
Central African Republic	✓	
Congo	✓	✓
Dominican Republic		✓
Egypt	✓	
Equatorial Guinea		✓
Eritrea	✓	
Ethiopia	✓	✓
Gambia		✓
Grenada		✓
Guinea	✓	✓

Country	Marriage	Pregnancy
Guinea-Bissau	✓	
Jamaica		✗
Jordan	✓	
Kenya	✓	✓
Kyrgyzstan	✓	
Lebanon	✓	
Lesotho		✓
Malawi	✓	✗
Mozambique	✓	✓
Namibia	✓	✓
Nepal	✓	
Niger	✓	✓
Paraguay		✓
Peru		✓
St. Kitts and Nevis		✗
Saudi Arabia	✓	
Sudan	✓	
Suriname		✓
Syrian Arab Republic	✓	
Tajikistan	✓	
Togo	✓	
Uganda	✓	
United Republic of Tanzania	✓	✓
Uruguay		✓
Uzbekistan	✓	
Venezuela	✓	✓
Zambia	✓	✓
Yemen	✓	

Source: Government reports under the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

Note: For countries where the law or administrative regulations have been adopted banning the exclusion from school on the grounds of a schoolchild's pregnancy ✗ has been used. Most often, such laws or regulations have been adopted to discontinue the expulsion from educational institutions of pregnant schoolgirls.

34. Strengthened and broadened commitments to gender equality in access to education have not yet evolved into similar commitments to attaining gender equality through education. There is a colossal difference between the two. Getting girls into schools often founders because education as a single sector does not, on its own, generate sufficiently attractive incentives for the girls' parents and the girls themselves if educated girls cannot apply their

education to sustain themselves and/or help their parents. Years of schooling appear wasted when women do not have access to employment and/or are precluded from becoming self-employed, do not have a choice whether to marry and bear children, or their opportunities for political representation are foreclosed.

B. Access to sex education

35. As announced in her previous annual report (E/CN.4/2003/9, paras. 43-44), the Special Rapporteur has initiated a survey of schoolchildren's access to sex education. Space constraints allow only a brief summary of a few highlights, and a fuller presentation will be done during the Commission's sixtieth session.

36. An explicit provision on sex education is contained in the Convention on the Elimination of All Forms of Discrimination against Women, which obliges States parties, in article 10 (h), to ensure for girls and women "access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning". The Committee on the Elimination of Discrimination against Women (CEDAW) has defined family planning to include sex education in its general recommendation No. 21. The Committee on the Rights of the Child in its general comment No. 3 on HIV/AIDS and the rights of the child, has interpreted the Convention on the Rights of the Child as affirming the right to sex education for children (para. 6) in order to enable "them to deal positively and responsibly with their sexuality", and continued:

"The Committee wishes to emphasize that effective HIV/AIDS prevention requires States to refrain from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, and that ... States parties must ensure that children have the ability to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality." (para. 16)

37. Sex education epitomizes the profound differences between and within countries in their treatment of children. Divergent attitudes towards children simmer underneath the apparent almost-global acceptance of the Convention on the Rights of the Child. Ferocious political duels amongst adults determine school curricula and teaching materials with regard to human sexuality. Girls pay the largest price. The Libyan Arab Jamahiriya has provided an illustration of the fate that girls are doomed to by provisions of domestic law: "the law applicable in the case of rape of a minor excuses the perpetrator of the crime if he is prepared to marry his victim" (see CRC/C/15/Add.84, para. 13).

38. Children who are married at the age of 10 - which is, according to the World Health Organization definition, the beginning of adolescence - have no transition to adulthood. Girls are declared adults when they marry. Once married, girls are "considered as adults and therefore no longer eligible" to enjoy the rights they should have as children.¹⁴ The age-based definition of adolescence, encompassing children from the age of 10 to 19, coincides with the length of compulsory education in a few countries only. Its duration aims at enabling children to study and learn before they take upon themselves responsibilities that define them as adults,

especially through becoming financially self-sufficient and starting their own families. The process of biological, psychological, emotional and social maturation is thereby facilitated through institutionalized education. Cutting off children's education at the age of 10 or 11 deprives them of adolescence, burdening them with adult responsibilities much before they are able to cope with them.

39. The abyss between forceful demands that schoolchildren be provided with sex education as a matter of right and its denial in the name of their parents' rights defines the scope of the problem. Proponents of both extremes in this debate resort to human rights language in arguing their case. Proponents of the children's right to know cite their best interests buttressed by public health considerations. International public health experts, convened by the Pan American Health Organization (PAHO/WHO), have found that "sexuality refers to a core dimension of being human ... experienced and expressed in all that we are, what we feel, think and do".¹⁵ Opponents cite parental rights and invoke public morality, claiming that children should be protected from "immoral 'sex education'".¹⁶ As summed up by the Government of Lesotho, "some parents strongly feel that sexual reproduction health education empowers children to be sexually active, whereas others feel that it enables them to make informed decisions" (CRC/C/11/Add.20, para. 37).

40. Table 3 lists countries and territories according to the number of officially recorded adolescents bearing children, using the standard measure of the number of births per 1,000 girls aged 15-19. There is no official recording of births by girls younger than 15, and the problem is hidden behind the complete lack of data, thus statistically invisible. Nevertheless, the problem is painfully visible in government reports under human rights treaties. For example, in Gabon "children aged 10 could ... be married" (CRC/C/41/Add.10, para. 71). The Government of the United Republic of Tanzania has reported that "Islamic law in Zanzibar also seems to recognize the possibility that girl children may be married before they reach puberty and without their consent" (CRC/C/8/Add.14/Rev.1, para. 161). In Niger, girls are married at puberty, "the age varies from 9 to 16 years" (CRC/C/3/Add.29/Rev.1, para. 18). A similar situation has been described by Mozambique:

"Rural communities usually consider that a girl is no longer a child when she has her first menstruation. This is when initiation rites take place or are concluded and she is ready for married life . . . some rural communities practice initiation rites on girls even before their first menstruation, sometimes when they are only seven years old" (CRC/C/41/Add.11, paras. 69-70).

41. The accuracy of figures in table 3 depends on the comprehensiveness and reliability of birth registration, which is notoriously inadequate in many developing countries. A child-mother may not have been registered herself when she was born, nor will her child be. It is well known that too many births are not registered, as well as that hiding the birth of a child may constitute the only way that the child-mother can avoid punishment where societal or legal norms ban childbearing by children.

Table 3

Adolescent childbearing: births per 1,000 girls aged 15-19

Over 200	Angola, Democratic Republic of the Congo, Liberia, Niger, Sierra Leone, Somalia, Uganda
150-200	Burkina Faso, Gabon, Guinea, Guinea-Bissau, Malawi
100-150	Afghanistan, Bangladesh, Benin, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Eritrea, Gambia, Guatemala, Honduras, Madagascar, Mali, Mauritania, Mozambique, Nepal, Nicaragua, Nigeria, Togo, Yemen, Zambia, Zimbabwe
50-100	Argentina, Bhutan, Bolivia, Botswana, Brazil, Burundi, Cambodia, Costa Rica, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Ethiopia, Ghana, Haiti, Indonesia, Kenya, Lao People's Democratic Republic, Lesotho, Mexico, Mongolia, Namibia, Oman, Occupied Palestinian Territory, Panama, Pakistan, Papua New Guinea, Paraguay, Peru, Rwanda, Senegal, South Africa, Sudan, Turkey, United Arab Emirates, United Republic of Tanzania, Uzbekistan
10-50	Australia, Albania, Algeria, Armenia, Austria, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Croatia, Czech Republic, Egypt, Estonia, Georgia, Greece, Hungary, India, Iran (Islamic Republic of), Iraq, Ireland, Israel, Jamaica, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Latvia, Lithuania, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mauritius, Morocco, Myanmar, New Zealand, Philippines, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Slovakia, Sri Lanka, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkmenistan, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela, Viet Nam, Yugoslavia
Less than 10	Belgium, China, Democratic People's Republic of Korea, Denmark, Finland, France, Germany, Italy, Japan, the Netherlands, Norway, Republic of Korea, Singapore, Slovenia, Spain, Sweden, Switzerland

Source: United Nations Population Fund, State of World Population 2002, Monitoring ICPD goals - selected indicators, pp. 69-71.

42. Table 3 demonstrates in its uppermost part, which lists Angola, Congo, Liberia and Sierra Leone, how much girls are victimized by warfare and militarization and how little chance of schooling there is in circumstances where more than one in five girls becomes a child-mother. Opting out of that fate is routinely impossible because there simply is no alternative. Superficial diagnoses which attribute childbearing by children to religion or culture are belied by the data in table 3 since countries sharing religious or cultural traits demonstrate substantively different outcomes.

IV. THE CONTINUING OBSTACLE OF ERRONEOUS CONCEPTS

43. The unique advantage of the human rights approach is its comprehensive legal framework, defining human rights and the corresponding government obligations which span horizontal and vertical division of competences. The symmetry between human rights and corollary government responsibilities ensures sustainability, linking empowerment with accountability. The rule of law as the foundation of human rights both facilitates and necessitates legal guarantees of the right to education and human rights safeguards in education. Changes in global and domestic education strategies at the turn of the millennium have broadened the scope for integrating human rights. A similar process of adjustment is necessary in human rights to adapt the right to education to changed circumstances.

44. Much as human rights are universal, so are the problems. Similar, often identical problems are encountered in different countries, and each country can benefit from the experiences of others. Rights-based approaches provide tools for identifying problems and a toolbox of global experiences in solving them. Problem-defining triggers asking new and different questions and seeking different types of data to document underlying problems.

45. No right can exist without remedies. Hence, the recognition of individual rights entails the corresponding standing to claim rights and demand remedies for their denial or violation. The evolution of human rights laws has been accompanied by setting up domestic and international institutional infrastructures for providing remedies for their denials and violations, both legal and extra-legal.

A. Getting children to school is merely a means, not the end of education

46. The quantitative goals and the associated targets in global education strategies entail reasoning in terms of figures, not people's lives or their rights. Statistics referring to out-of-school children can differ by millions owing to altered statistical categorizations, not changed numbers of children. For example, the reduction of primary schooling by one year in China, India and the Russian Federation diminished the number of out-of-school children in the world from 115 million in 1999 to 104 million in 2003.¹⁷ This is a reminder that "Goodhart's Law", developed within the realm of central bankers, applies broadly: any target that is set quickly loses its meaning as it becomes manipulated.

47. Commonly used definitions of the quality of education reflect one purpose of education, namely learners' achievement. Quantitative and qualitative dimensions of education that have been prioritized to enhance learning vary in time and place. Differences between and within countries reveal, on the one hand, an insufficient number of schools without essential safety and environmental health safeguards as well as untrained and, often, unpaid teachers and, on the other hand, schooling that produces outcomes ranked high within internationally administered tests of learning accomplishments. Government obligation to define and ensure the quality of education requires an assessment of the existing conditions against the postulated goals of education, a definition of standards that should be in place everywhere, and an identification of institutions and procedures whereby these standards will be implemented, monitored and enforced. Within the area of education, critiques of globalized

central planning, consisting of targets and tests, provide an excellent entry point for integrating human rights. Joel Samoff has followed his objections to considering education to be a technique with the focus on cost-effective ways of delivering education services by saying:

“The most important measures of success of an education programme are the learning that has taken place and the attitudes and values that have been developed. There is little point in reducing the cost of ‘delivering education services’ without attention to whether or not learning is taking place. Assessing learning and socialization is both complex and difficult. That it is difficult makes it all the more important that it be addressed systematically and critically.”¹⁸

48. Rights-based education broadens the focus of quantitative data and internal objectives of education to *all* rights of *all* key actors in education, encompassing processes of teaching, learning and socialization. As UNESCO has put it, “the inclusion of human rights in education is a key element of a quality education.”¹⁹ This entails an altered design of education strategies, which should accommodate the minimum universal human rights standards pertaining to the key subjects of rights: the learners, their parents and their teachers. These often necessitate creating quantitative and qualitative data which do not, as yet, exist because the process of integrating human rights throughout the process of education, encompassing both teaching and learning, is new. The pioneering work of the Inter-American Institute of Human Rights (Instituto Interamericano de Derechos Humanos, IIDH) in developing the conceptual framework and indicators for assessing the state of human rights education merits particular attention. Its approach to defining human rights education as part of the right to education and the scope of analysis encompassing public policy, the curriculum, teachers’ education and school textbooks represent a model that can easily be replicated as does the set of indicators to complement qualitative analyses.²⁰

49. There is, however, a paucity of quantitative data that are both desired and necessary for the monitoring of the right to education and human rights in education. These include the child’s mother tongue as well as religious and ethnic background. Personal identification of individuals by their race or religion is prohibited in many countries, hence population-based data are compiled instead. The sensitivity of recording religion or political affinity of parents, and thus their children, is based on, *inter alia*, the possible victimization that this may entail. Identification of children’s learning abilities and disabilities also creates controversy, albeit of a different kind. Ongoing efforts to create internationally comparable statistics relating to the special needs that education should accommodate have revealed differences in underlying definitions. The proportion of children categorized as having special needs varies between 1 per cent and 40 per cent, demonstrating incomparability of national statistics as well as the underlying definitions.

B. Schooling can be deadly

50. One could easily imagine the difference that education would make if schools stopped education *for* human rights (which is a considerable accomplishment on its own merits) and children started to be educated *as* people with rights. This is easy to imagine because it encapsulates what rights-based education means. Translating this from vision to reality, however, requires the identification and abolition of contrary practices, a difficult task because these are not monitored, least of all globally. One important reason is the assumption that

getting children into school is the end rather than a means of education, and an even more dangerous assumption that any schooling is good for children. As a 10-year-old schoolchild has said to the Special Rapporteur, "Everybody thought they knew what was good for me and no one thought of asking."

51. The almost exclusive focus on getting children to school in global education strategies jeopardizes the need to ascertain that children are - at least - safe while at school. The Special Rapporteur's mission to China (E/CN.4/2004/45/Add.1, para. 14) revealed one facet of the risk that schoolchildren may be running when they work at school, that they may die because they have to work. In one of her letters to the Government of Turkey, on 7 July 2003, the Special Rapporteur asked for clarification of the reported deaths of 84 secondary school pupils when the school building collapsed because it had been improperly built, allegedly because of corruption. These two recent instances are merely an illustration of a huge and unexplored problem. For example, nobody knows how many children die as result of corporal punishment at school.

52. As adults, we are often faced with the need to unlearn what we were taught at school. This recalls a definition of learning used by the military, which emphasizes "changed behaviour based upon previous experiences".²¹ The process of unlearning and relearning was described by Rami Kaplan of the Courage to Refuse Group thus: "It took me a long time to realize, to understand, that not everything I learned during my long years as an officer was correct."²²

C. Education can be a barrier or a bridge between individuals and communities

53. Alongside transmission of knowledge, education is the key vehicle for intergenerational transmission of values. These may be articulated in national education strategies and laws or remain implicit. Rights-based education requires conformity of the entire process of education, encompassing both teaching and learning, with the ends and means specified in human rights standards. The exit of learners from education into society demands scrutiny in accordance with human rights criteria, and the impact of education should be assessed by the contribution it makes to the enjoyment of all human rights. Thus, richly endowed education systems may be faulted for their failure to rupture intergenerational transmission of racism or xenophobia; segregated education may be faulted for fostering disintegration of society or intercommunity conflicts. The indivisibility of human rights as the conceptual basis for assessing the human rights impact of education is, as yet, an unexplored area. One important reason is sectoral orientation of education, while rights-based approaches are cross-sectoral. The particular focus of human rights on the elimination of gender and racial discrimination indicates issues to be prioritized. Moreover, specific provisions on the contents of education highlight the adjustments needed for all education to underpin promotion of human rights.

54. UNESCO forged the concept of a right to be different in 1978, positing that "[a]ll individuals and groups have the right to be different, to consider themselves as different and to be regarded as such".²³ Albie Sachs took this one step further in 2000, affirming "the right of people to be who they are without being forced to subordinate themselves to the cultural and religious norms of others".²⁴ International human rights law demands substitution of the

previous requirement upon children to adapt themselves to whatever education was available by adapting education to the best interests of each child. In our imperfect world, the right of each child to be regarded - and respected - as different remains a distant dream. Children are, in practice, reduced to the few denominators that are monitored and thereby inform education laws and policies. These are often only sex and age, rarely disability, only sometimes the child's mother tongue, religion, race or provenance. Thus, the next step that should be taken is to adapt education so that it can treat children as individuals rather than as bearers of particular ethnic or religious traits.

D. Segregation or inclusiveness, identical or preferential treatment?

55. Although international prohibitions of discrimination tend to be replicated in most national laws, elimination of discrimination is an immense challenge, everywhere. Prohibiting denial of education to a child because she is female or belongs to a minority or is disabled - or all of these - is only the first step towards affirming the universality of the right to education and the corollary obligation to encompass all children by education. This first step, a formal prohibition of discrimination, therefore has to be followed by additional steps to redress the heritage of such denials.

56. The fiftieth anniversary of *Brown v. Board of Education of Topeka* in April 2004 brings back the memorable statement of the United States Supreme Court that separate schools are never equal and requires revisiting the road travelled in the past five decades.²⁵ Controversies revolving around affirmative action in education in the United States (see E/CN.4/2002/60/Add.1, paras. 50-53) epitomize choices to be made through its description by some as reversing discrimination, by others as reverse discrimination. A look back at the past half-century shows that powerful movements opposed racial segregation. Their success was marked by prohibitions of racial discrimination and government obligations to eliminate it. Segregation has been, however, altered rather than eliminated. The boundaries of belonging are no longer laid down in law but determined by the power of the purse and evidenced in the racial profile of residential segregation and the intake of private schools.

57. The principle of indivisibility of human rights requires education in conformity with the entire human rights law. Thus, the Special Rapporteur has structured government human rights obligations into making education available, accessible, acceptable and adaptable (see E/CN.4/1999/49, paras. 51-74; E/CN.4/2000/6, paras. 32-65; E/CN.4/2001/52, paras. 64-65) and is delighted at the broad use of her 4-A scheme. Its most important message is that mere access to educational institutions, difficult as it may be to achieve in practice, does not amount to the right to education. Rather, the right to education requires enforceable individual entitlements to education, safeguards for human rights in education and instrumentalization of education to the enjoyment of all human rights through education.

Notes

¹ Development Committee (Joint Ministerial Committee of the Boards of the World Bank and the International Monetary Fund on the Transfer of Real Resources to Developing Countries), Global Monitoring of Policies and Actions for Achieving the MDGs and Related Outcomes: Implementation Report, DC2003-0013, 15 September 2003, para. 22.

² World Bank Operational Directive (OD) 4.15 as revised in 1993.

³ Education for All: An international strategy to put the Dakar Framework for Action on Education for All into operation, April 2002, p. 16.

⁴ *Achieving Universal Primary Education by 2015: A Chance for Every Child*, B. Bruns, A. Mingat and R. Rakotomalala (eds.), The World Bank, Washington DC, 2003, p. 81.

⁵ The similarities between the Millennium Development Goals and the Education for All (EFA) commitments reflect the global consensus in stipulating the completion of primary education by all children by the year 2015 and the elimination of gender disparities in education. Additional EFA commitments, including the prolongation of education for all to encompass primary and lower secondary education (under the name of “basic education”), have regrettably not triggered a similarly broad global consensus.

⁶ Education for All Fast Track: The No-Progress Report, Global Campaign for Education Briefing Paper, 11 September 2003, available at www.campaignforeducation.org/_html/news/welcome/frameset.shtml.

⁷ General Assembly resolution S-23/3, “Further actions and initiatives to implement the Beijing Declaration and Programme of Action, para. 68 (b).

⁸ P. Whitacre, Education Decentralization in Africa as Viewed through the Literature and USAID Projects, Washington DC, Academy for Education Development and USAID, January 1997, p. 5.

⁹ The World Bank, *Gender Equality & the Millennium Development Goals*, Washington DC, 4 April 2003, p. 13.

¹⁰ S. Morley and D. Coady, *From Social Assistance to Social Development: Targeted Education Subsidies in Developing Countries*, Center for Global Development and International Food Policy Research Institute, Washington DC, August 2003.

¹¹ Dakar Framework for Action, para. 10.

¹² These are Australia, Austria, Belgium, Canada, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Norway, Poland, Portugal, the Republic of Korea, Slovakia, Slovenia, Spain, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

¹³ *Progress of the World's Women 2002: Gender Equality and the Millennium Development Goals*, The United Nations Development Fund for Women (UNIFEM), New York, 2002, p. 13.

¹⁴ Report of the Committee on the Rights of the Child, *Official Records of the General Assembly, Fifty-first Session, Supplement No. 41 (A/51/41)*, para. 235.

¹⁵ *Promotion of Sexual Health: Recommendations for Action*. Proceedings of a regional Consultation Convened by PAHO/WHO in Collaboration with the World Association for Sexology, Antigua Guatemala, Guatemala, 19-22 May 2000, PAHO (Pan American Health Organization), Washington DC, 2001, p. 6.

¹⁶ Conclusions of the Pastoral Theological Congress, Fourth World Meeting of Families, Manila, 24 January 2003, available at www.vatican.va.

¹⁷ *Gender and Education for All: The Leap to Equality. EFA Global Monitoring Report 2003/04*, UNESCO, Paris, 2003, p. 49.

¹⁸ J. Samoff, *Education for What? Education for Whom? Guidelines for National Policy Reports in Education*, UNESCO, Paris, 1994, p. 28.

¹⁹ UNESCO Executive Board, Elements for an overall UNESCO strategy on human rights, (165 EX/10) para. 31.

²⁰ *II Informe Interamericano de la Educación en Derechos Humanos. Un estudio en 19 países*, Instituto Interamericano de Derechos Humanos, San José, diciembre 2003.

²¹ *Joint Training Manual for the Armed Forces of the United States*, document CJCSM 3500.03 of 1 June 1996, para. GL-9.

²² R. Kaplan, "Why we refuse to fight for continued occupation", *International Herald Tribune*, 30 April 2002.

²³ UNESCO, Declaration on Race and Racial Prejudice, adopted by the General Conference of UNESCO on 27 November 1978, article 1 (2).

²⁴ Constitutional Court of South Africa, *Christian Education South Africa v. Minister of Education*, case CCT 4/00, judgement of 18 August 2000, para. 24.

²⁵ K. Tomasevski, *Education Denied: Costs and Remedies*, Zed Books, London, 2003, pp. 145-147.